

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:05-CV-34-FL

VICENTE JIMENEZ-OROZCO a/k/a VICENTE)
JIMENEZ OROSCO and JUAN PUCHETA)
VELASCO, both individually and on behalf of all)
other similarly situated persons,)
)
v.)
)
BAKER ROOFING COMPANY, W. PRENTISS)
BAKER, III, FRANK S. BAKER, and REBEKAH)
BAKER,)
)
Defendants.)

ORDER

This case comes before the court on defendants' motion for a protective order [DE #74-1], which seeks to prevent plaintiffs from taking the deposition of Mark Lee ("Lee"), the operations manager for defendant Baker Roofing Company. The basis for defendants' motion is that the deposition has been noticed for alternative dates (*i.e.*, 12 or 22 April 2007) beyond the current discovery deadline of 2 April 2007,¹ which was set by the court in its 31 January 2007 Order [DE #64]. (Lee Depo. Notice [DE #74-2], pp. 1-3; Defs.' Mem. [DE #75], pp. 2-3). Plaintiffs have filed a response in opposition to the motion. (*See* Plfs.' Mem. [DE #76-1]).

The court finds that plaintiffs have shown good cause for taking Lee's deposition outside the current discovery period. Moreover, defendants' motion fails to comply with Fed. R. Civ. P. 26(c) and Local Civil Rule 7.1(c) (E.D.N.C.), which require certification that counsel made a good faith effort to resolve the discovery dispute before filing a discovery motion. Accordingly, defendants' motion for a protective order is DENIED. Plaintiffs shall have up to and including 22 April 2007 in which to take Lee's deposition.

¹The notice also proposed 2 April 2007 as an alternative date (Lee Depo. Notice, pp. 1-2), but defendants' motion was not filed until that date and that date is now moot.

SO ORDERED, this the 9th day of April, 2007.



James E. Gates
United States Magistrate Judge